

In this case, exemplary claim 1 requires the performance of three steps that are directed to the formation of a structure through which revenue can be generated. That is, claim 1 requires the steps of: 1) providing a support; 2) providing a first type of information on the support; and 3) placing advertising information that is different from the first type of information on the support.

Applicant respectfully submits that this claimed subject matter is patentable and nothing in the cited Supreme Court cases is inconsistent with this position.

Diamond v. Diehr, 450 U.S. 175 (1981), held that synthetic rubber molding processes were within the patentable subject matter of 35 U.S.C. § 101. While a mathematical equation was utilized, claiming of the equation in a broader sense was not being attempted.

Parker v. Flook, 437 U.S. 584 (1978), dealt with a mathematical formula, which was determined not to be patentable.

Gottschalk v. Benson, 409 U.S. 63 (1972), dealt with an "abstract" method for programming a computer that could be performed with or without any apparatus. The Court found that this was an attempt to improperly patent "an idea".

Cochrane v. Deener, 94 U.S. 780 (1876), found patentable a process of bolting flour.

It is respectfully submitted that none of the cited Supreme Court cases dealt with facts similar to those at hand. Applicant's claimed subject matter is tied into the apparatus specifically required in all claims. Consequently, the subject matter of all claims is believed to be patentable within the parameters of 35 U.S.C. § 101.

Claims 1-13 and 15-22 stand rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 6,897,786, to Kalt et al. (Kalt), in view of U.S. Patent Application Publication No. 2006/0213102 (Keach), and further in view of the article authored by Matthew Purdy (“Turnpike”). Claim 14 stands rejected under 35 U.S.C. § 103 as obvious over Kalt in view of Keach and Turnpike, and further in view of U.S. Patent No. 6,267,529, to Mudryk et al. (Mudryk).

Reconsideration of the rejection of claims 1-22 is requested.

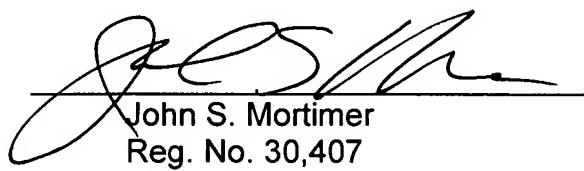
Applicant is submitting herewith a Declaration of the sole inventor, Bradley Emalfarb, attesting to his prior invention of the claimed subject matter herein, thereby removing Keach as citable prior art. Mr. Emalfarb confirms that he reviewed the application, as originally filed herein, and subsequently on May 29, 2003, signed the Declaration and Power of Attorney that is of record. This paper trail establishes that Mr. Emalfarb invented the subject matter of the above application at least as early as May 29, 2003, by which date he had reviewed the application in the form as originally filed herein. It is respectfully submitted that with Keach removed as a prior art reference, the arguments advanced in the Applicant’s July 30, 2009 submission clearly explain why the claimed subject matter is patentable over any combination of Kalt, Turnpike, and Mudryk.

Reconsideration of the rejection of claims 1-22 and allowance of the case
are requested.

Respectfully submitted,

WOOD, PHILLIPS, KATZ,
CLARK & MORTIMER

By



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Dated: Jan 8, 2010

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